

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 858 of 1997

in

SPECIAL CIVIL APPLICATION No 5863 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DIST.PRIMARY EDUCATION OFFICER

Versus

BARIYA FATEHBHAI SAUKUNBHAI

Appearance:

MR MUKESH R SHAH for Appellants
MR DILIP RANA for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 2

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE A.L.DAVE

Date of decision: 18/12/98

ORAL JUDGEMENT

Appeal admitted. Mr. Dilip Rana appears for respondent No.1 and waives service of notice of admission

on behalf of respondent No.1. None appears for respondent No.2, though served.

Considering the facts and circumstances of the case, the matter is taken up today for final hearing.

The appellant herein challenges the order passed by this Court in Special Civil Application No.5863 of 1996 dated 26th June, 1997, wherein a direction was issued against the present appellant to pay cost of Rs.2000/- for not replying to the notice and letters written by present respondent No.1.

The facts of the case are that that respondent No.1 had applied for the post of Primary Teacher in the year 1992 with the appellant. At that time, respondent No.1 was not selected. Thereafter, again in 1995, a fresh select list was prepared wherein also, he was not selected. While responding to the notice inviting applications in 1992, respondent No.1 had not attached to his application the certificate in support of his additional qualifications and, as such, he was not considered.

Since the appellant has challenged only the portion of the order relating to awarding of costs, we do not enter into the merits of the petition.

Considering the fact that the notice by respondent No.1 through an advocate was replied to by the appellant, we do not deem it proper that an order for cost of Rs.2000/- could have been awarded while exercising powers under Article 226/227 of the Constitution. Accordingly, we partly allow the appeal and set aside that portion of the impugned order directing the appellant to pay cost of Rs.2000-. Rest of the directions remain undisturbed. No costs.

[C.K. THAKKAR, J.] [A.L. DAVE, J.]